



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

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| <b>Agency Name:</b>        | Commonwealth Transportation Board (Va. Dept. of Transp.) |
| <b>VAC Chapter Number:</b> | 24 VAC 30-90-10 et seq.                                  |
| <b>Regulation Title:</b>   | Subdivision Street Requirements                          |
| <b>Action Title:</b>       | Retain   |
| <b>Date:</b>               | January 23, 2001   |

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation establishes minimum criteria for the addition of subdivision streets into the secondary system of state highways. The Subdivision Street Requirements apply in all counties (except Arlington and Henrico), the former Nansemond County portion of the City of Suffolk, and towns in which the streets are maintained by VDOT. The regulation is intended to influence the planning, design, development, and regulation of residential, commercial, and industrial subdivision of land, and to enhance the level of safety and service provided by subdivision streets. The regulation sets out the minimum standards that streets must meet to qualify for maintenance as part of the secondary system of state highways under VDOT jurisdiction.

## Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

No federal statutes pertain to the regulation. Title 33.1 of the Code of Virginia contains many statutory references to the secondary system and the authority to issue regulations. VDOT, the Commissioner and the Commonwealth Transportation Board (CTB) are granted "control, supervision, management, and jurisdiction" over the secondary system of state highways by Section 33.1-69. Furthermore, the CTB has general authority to make regulations concerning the use of the state highway system pursuant to Section 33.1-12. Section 33.1-229 gives the Commissioner discretionary authority over the expenditure of state funds for the secondary system. Finally, persons desiring commercial entrances must obtain permits from VDOT pursuant to Section 33.1-198, because subdivision roads, when they intersect with existing roads in the state system of highways, are considered commercial entrances. The Office of the Attorney General affirmed these statutory references in correspondence to VDOT in 1995, when the regulation last underwent a full-scale Administrative Process Act (APA) amendment.

More generally, Section 15.2-2240 of the Code of Virginia requires each locality to enact an ordinance to ensure that land is subdivided and developed in an orderly manner. The Catalog of State & Federal Mandates on Local Governments includes the Subdivision Street Requirements as a mandate (STO.VDOT009). In September of 1999, pursuant to the requirements of Executive Memorandum 1-98, the Secretary of Transportation submitted a recommendation that the mandate be retained to the Commission on Local Government.

This regulation does not exceed the specific minimum requirements of any federal or state mandate.

## Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

VDOT received no public comment concerning the Notice of Periodic Review published in the Virginia Register. No informal advisory group was formed to review the document. The last full-scale APA amendment procedure for this regulation was completed in 1996, after VDOT completed a study in response to Senate Joint Resolution 61. The resolution directed VDOT to study the regulation to determine if greater flexibility in design standards were warranted. As part of the review and amendment processes, VDOT solicited input from municipalities, developers, and other stakeholders to ensure that the regulation was mutually beneficial to both VDOT and the regulated parties. VDOT has maintained lines of communication with these stakeholders, and periodically reviews the content of the regulation to ensure its adequacy.

## Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

Specific and measurable goals:

The public notice asked the following questions concerning the specific and measurable goals of the Subdivision Street Requirements:

1. Does the regulation meet the following goals?
  - To serve as a reference resource for parties involved in the planning, design, development, and regulation of residential, commercial, and industrial subdivisions.
  - To establish the minimum criteria for the addition of subdivision streets as a part of Virginia's secondary system of state highways.
  - To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.
2. Is the regulation written clearly and understandably?

Effectiveness of the regulation in achieving these goals:

The lack of public comment received concerning the Periodic Review, along with the comprehensive nature of the revisions made in 1996, indicate that the regulation is effective in meeting the goals specified above.

Rationale for essential nature of regulation:

The regulation was originally adopted in 1949 to establish the framework by which subdivision streets are added to the state secondary system, and has been revised repeatedly since then. VDOT has a vested interest in promulgating regulations requiring that any subdivision streets it adds to the secondary system are built in accordance with sound engineering principles, since poorly constructed roads require more costly maintenance or remedial work than properly constructed roads to keep them usable. VDOT is also motivated to promulgate regulations that ensure the safety and comfort of the traveling public. These reasons are important governmental functions which are essential to the welfare and safety of Virginia's citizens.

Furthermore, prior to initiating the last full-scale APA amendment, the regulation was evaluated by the Secretary of Transportation and the Department of Planning and Budget to ensure that it fulfilled an important governmental function.

Impact of regulation on family:

The impact of the regulation on families is addressed below.

Clarity and understandability of regulation:

The regulation was amended in 1996 to update nomenclature, provide additional definitions, clarify situations in which it may be applied, address new design parameters, clarify steps in the street addition process, and simplify the presentation of technical data. All of these amendments were made to improve the ability of users to understand the regulation

## Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

No feasible alternatives exist other than promulgating a regulation establishing minimum criteria that apply to all subdivision streets eligible for addition to the state secondary system. For example, if the state secondary system were eliminated, and jurisdiction were returned to individual localities, the regulation would be unnecessary. However, due to the varying abilities of localities to assume the financial burdens this alternative would impose, the quality of the local road system on a statewide basis would suffer. Localities would be free to impose different minimum requirements, which would lead to roads with widely varying construction and maintenance costs. As a result, the welfare and safety of the traveling public would be adversely affected. For these reasons, VDOT believes that the Subdivision Street Requirements present the least burdensome alternative to achieve the purpose stated above.

## Recommendation

*Please state that the agency is recommending that the regulation should stay in effect without change.*

VDOT recommends that the regulation should stay in effect without change.

## Family Impact Statement

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

The purpose and scope of this regulation is transportation-related. As such, it has no impact on any of the factors listed above.